

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 528

CASE NO. 86-21F/85-9P

APRIL 13, 1987

(Miller Companies - PUD and Map)

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on December 11, and 15, 1986. At those hearing sessions, the Zoning Commission considered applications from the Miller Companies for second-stage (final) review and approval of a Planned Unit Development (PUD) and related map amendment, pursuant to Sections 2400 and 102 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of Chapter 30 of the Zoning Regulations. The record of this case incorporates the records in Z.C. Case No. 85-16F/84-20P (Donohoe - PUD) and Z.C. Case No. 85-20C (Abrams - PUD).

FINDINGS OF FACT

1. The applications which were filed on August 22, 1986, requested final review and approval of a PUD and a related change of zoning from R-5-B and C-2-B to R-5-C and C-3-B for Lots 1, 14, 15, 26, 800, 804 and 808 in Square 1661 with portions of a public street and alleys to be closed.
2. The applicant proposes to construct a mixed-use development including residential, office and retail uses.
3. The PUD site is comprised of approximately 95,363 square feet of land area and is located midway in Square 1661 which is bounded by Wisconsin and Western Avenues, Military Road, Jennifer and 43rd Street, N.W. The site is an irregular "T-shaped" parcel with frontage of approximately 490 feet on 43rd Street and approximately 195 feet on Wisconsin Avenue. A fifteen foot building restriction line exists along the 43rd Street frontage.
4. The applicant proposes to close Belts Lane and alleys in the subject square and include those areas as part of the PUD site.

5. The PUD site is improved with several small buildings and a surface parking lot. The site slopes from a high point at the northern portion of the site along 43rd Street near Military Road, southward along 43rd Street with a grade change of approximately eight feet, and westward toward Wisconsin Avenue to a low point with a grade change of approximately ten feet.
6. The subject site is split-zoned with approximately one-third located in the C-2-B District along the Wisconsin Avenue frontage and two-thirds in the R-5-B District along the 43rd Street frontage.
7. The R-5-B District permits matter-of-right development of general residential uses including single-family dwellings, flats, and apartments to a maximum lot occupancy of sixty percent, a maximum floor area ratio (FAR) of 1.8 and a maximum height of sixty feet.
8. The C-2-B District permits matter-of-right medium density development, including office, retail, housing, and mixed uses to a maximum height of sixty-five feet, a maximum floor area ratio (FAR) of 3.5 for residential and 1.5 for other permitted uses, and a maximum lot occupancy of eighty percent for residential uses.
9. The R-5-C District permits matter-of-right medium/high density development of general residential uses, including single-family dwellings, flats, and apartment buildings, to a maximum height of ninety feet, a maximum floor area ratio (FAR) of 3.5, and a maximum lot occupancy of seventy-five percent.
10. The C-3-B District permits matter-of-right major business and employment centers of medium density development, including office, retail, housing, and mixed uses to a maximum height of seventy feet/six stories, a maximum floor area ratio (FAR) of 5.0 for residential and 4.0 for other permitted uses, and a maximum lot occupancy of one hundred percent.
11. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development conditions, guidelines, and standards which may exceed or be lesser than the matter-of-right standards identified above.
12. The Generalized Land-Use Element Map of the Comprehensive Plan shows the area in the vicinity of Square 1661 to include a mixed-use, medium-density residential category and medium density commercial category. The subject area is also identified as a commercial regional center, and Metrorail station development opportunity area.

13. The zoning pattern in the area includes the R-2 District to the east, northeast and southeast; R-5-B and C-3-A Districts to the north; C-2-B and C-3-A Districts to the west; R-5-B, C-2-A and C-2-B Districts to the south and southeast. Further to the north, northwest and west is Montgomery County, Maryland.
14. Existing uses on the subject site include a surface parking lot, a liquor store, a retail store and a veterinary office. The existing structures are all one or two story buildings.
15. North of the subject site in Square 1661 is the vacant one-story Interstate Bank building along Wisconsin Avenue. North of the Interstate Bank building along Wisconsin Avenue is the two-story First American Bank building. At the eastern corner of the intersection of Wisconsin and Western Avenues is the two-story NS&T Bank building with the drive-in facility of the bank to its east. This property was the subject of an application for a PUD and related map amendment in Z.C. Case No. 85-16F/84-20P, which was given final approval on August 4, 1986 in Z.C. Order No. 492. Z.C. Order No. 492 was vacated by the Commission on December 15, 1986 and entered Z.C. Order No. 517 on January 12, 1987.
16. South of the site is the six-story Columbia First Federal Savings and Loan building, a surface parking lot and a single-family detached dwelling. This property is the subject of a PUD and a map amendment application in Z.C. Case No. 85-20C, which was granted final approval on February 9, 1987 in Z.C. Order No. 519.
17. East of the site, across 43rd Street is a residential community, extending from 43rd Street to Connecticut Avenue, N.W. and consisting of detached and semi-detached dwellings.
18. West of the site, across Wisconsin Avenue is the Mazza Gallerie shopping center.
19. The site is located in the Friendship Heights neighborhood of the District of Columbia just south of the District's boundary with Montgomery County, Maryland. Wisconsin Avenue is characterized by commercial development north and south of the subject site. Other uses in the area of the site include:
 - a. The recently completed Chevy Chase Metro building, the Chevy Chase Shopping Center and Saks Fifth Avenue to the north in Montgomery County;

- b. The Woodward and Lothrop Department Store and the GEICO office complex, to the northeast in Montgomery County; and
 - c. Commercial uses to the south and southwest of the site consisting of the Jenifer Mall, a bank, movie theater, restaurants, clothing stores, and offices.
20. The Zoning Commission published a Notice of Public Hearing in the D.C. Register on October 31, 1986 and at the same time gave notice of special procedures applicable to this case in order to regulate the course of the hearing, to establish reasonable time limits for witnesses and to fairly allocate time among the parties and others. At the start of the Public Hearing, the Commission determined the persons to be admitted as parties, the amount of time to be allocated to each, and ruled upon procedural matters, including the request by Mazza Gallerie to withdraw its request for party status.
21. The applicant proposes to construct a mixed-use project containing a residential, retail and office component. The project will have a total floor area ratio (FAR) of 4.72, exclusive of atria, and contain a total building area of 450,288 gross square feet. The office component will contain 268,586 square feet at 2.82 FAR. The retail component will contain 93,657 square feet at 0.98 FAR, and the residential component will consist of 88,045 square feet at 0.92 FAR. There will be three levels of underground parking with 554 parking spaces. The lot occupancy will not exceed ninety-two percent.
22. On August 4, 1986, the Zoning Commission in Z.C. Order No. 493 in Case No. 85-9P, granted first-stage (preliminary) approval of the Miller PUD, subject to conditions, guidelines and standards. The PUD provisions of the Zoning Regulations require the applicant to conform to those development conditions upon filing an application for second-stage (final) PUD review. With respect to those guidelines, conditions, and standards of Z.C. Order No. 493, the Commission notes the following:
- a. The project will be developed under the C-3-B and R-5-C District provisions of the Zoning Regulations;
 - b. The final design of the project is based upon the plans marked as Exhibit No. 44 as revised by Exhibit No. 133b of the record in Z.C. Case No. 85-9P, although some of the components have been revised;

- c. The project is a mixed-use development consisting of residential apartments, office and retail components. There are no movie theaters in the project;
- d. The residential component of the building is not completely based on Design Option B of the plans marked as Exhibit No. 44 of the record in Z.C. Case No. 85-9P. In the second-stage application, the applicant submitted plans for a lower residential component which will still have a "Townhouse" like facade;
- e. The floor area ratio (FAR) of the project is less than the maximum 5.34 permitted by the first-stage order. Further, the commercial FAR is less than 4.03;
- f. The lot occupancy of the project is ninety-two percent of the site;
- g. The maximum height of the building is 110 feet along Wisconsin Avenue. The height of the residential component has been reduced from five and eight-stories along 43rd Street to four and five stories. As required, the applicant submitted with its second-stage filing, information regarding the feasibility of eliminating or reducing the view of the penthouse from 43rd Street, and the feasibility of reducing the height of the office component by one-story in conjunction with the feasibility of reducing the retail FAR by 0.5.
- h. There is no vehicular access to or from the subject site on 43rd Street.
- i. Landscaping and paving is in accordance with the general landscaping as shown on the plans marked as Exhibit No. 44 of the record in Z.C. Case No. 85-9P. As part of the second stage application, the applicant filed specific streetscape design standards in accordance with Department of Public Works (DPW) standards. All utility lines for the project, along with the existing utility lines on adjacent street frontages, are placed underground.
- j. The applicant along with the other owners in the Square have developed a single unified plan for vehicular circulation as a through-square connector within Square 1661 as shown on Exhibit No. 44 as amended by Exhibit No. 133b of the record in Z.C. Case No. 85-9P. The through-square

connector includes: (a) parking and loading; (b) entrances and exits off of Wisconsin Avenue, Military Road and Jenifer Street; (c) internal vehicular circulation; and (d) internal and external signage.

- k. The applicant has coordinated with the other owners in Square 1661 to provide automobile access through combined entrances and exits on Wisconsin Avenue. In the second stage application, the applicant provided a plan for alternative "stand-alone" circulation measures in the event that one or more of the proposed developments in the subject Square do not proceed in a timely manner.
- l. The applicant submitted drawings with the second-stage application, as proposed in the plans marked as Exhibit No. 44 as revised by Exhibit No. 133b of the record in Z.C. Case No. 85-9P that include 550 below-grade parking spaces, five loading berths and three service delivery spaces.
- m. The parking garage in the second-stage application provides the potential for a connection to the adjacent properties at not less than one location below grade level, as shown on the plans filed in the record and marked as Exhibit No. 44 and as modified by Exhibit No. 133b in Z.C. Case No. 85-9P.
- n. The applicant is providing one fully accessible parking space with each apartment unit. Such parking space will only be used by the owner or occupant of the apartment and not for commercial use.
- o. The applicant in its second-stage application submitted a study of surface pedestrian traffic along and crossing Wisconsin Avenue. The study indicated the following:
 - i. That a mid-block pedestrian crossing is not feasible nor desirable.
 - ii. That changes in signalization could improve pedestrian movement across Wisconsin Avenue at Jenifer and Western.
 - iii. That there will be no significant risk to pedestrians from traffic using the vehicular entrance on Wisconsin Avenue.

- p. The final design of the project includes a below grade pedestrian connection for Metrorail users to properties to the north and south of the subject PUD site.
 - q. In the second-stage application, the applicant provided a study indicating that although it is physically feasible to provide a below-grade pedestrian connection from its project to Mazza Gallerie, it is financially prohibitive, creates security problems and is not desired by the owners of the Mazza Gallerie.
 - r. There are no pedestrian bridges over Wisconsin Avenue from the subject site to the Mazza Gallerie.
 - s. The applicant indicated in its second-stage application, that it would be financially prohibitive to operate a jitney bus service to and from other retail stores in the Friendship Heights area.
 - t. The applicant submitted, with its second-stage application, a transportation management plan applicable to employees, managers, and customers of the proposed project.
 - u. The applicant provided DPW with an adequate opportunity to review all vehicular and circulation plans prior to filing its second-stage application.
 - v. The applicant provided the following information in its second-stage application:
 - i. A detailed explanation of the entire internal and external circulation system;
 - ii. A signage plan; and
 - iii. A traffic management program, which included a study of: (i) the interaction of the garages of the three developments in the Square; (ii) any conflicts; (iii) a truck management program; (iv) the possibility of a single garage for all three developments in the Square; and (v) the use of a flag person to direct truck loading and unloading at the truck delivery areas.
-

- w. The applicant submitted, as part of the second-stage application, detailed landscape and architectural plans and elevations indicating the design treatment, building materials, color and other such details.
- x. The applicant has entered into an agreement with the Department of Public Works (DPW) to provide for a pro rata share of the funding and implementation of the following:
 - i. Implementation of the street and road improvements as described in paragraph 2b of the DPW report dated March 28, 1986 and marked as Exhibit No. 147 of the record in Z.C. Case No. 85-9P; and
 - ii. A further study of present and future area traffic, including construction vehicles, as described in paragraph 2c of the DPW report dated March 28, 1986 and marked as Exhibit No. 147 of the record in Z.C. Case No. 85-9P. The study area boundaries are to include but not be limited to Western Avenue on the north, 41st Street and Reno Road on the east, Fessenden Street on the south, and River Road and Western Avenue on the west.

The applicant is sharing with the other developers in Square 1661 the cost of this program, and the area street and road improvements.

- y. This approval was valid for a period of one year from the effective date of Z.C. Order No. 493. Within that period, the applicant filed a second-stage application.
22. At the public hearing, the applicant filed an Alternative Plan to reduce the overall FAR of the project. The Alternative Plan was the result of an Agreement between the applicant and Advisory Neighborhood Commissions 3E and 3G, the Friendship Neighborhood Coalition and the Citizens' Coordinating Committee on Friendship Heights (collectively known as the "Neighborhood Parties"). In exchange for the applicant's agreement to reduce the density of the project, the Neighborhood Parties have agreed to support the second-stage application, as amended. A copy of the Memorandum of Agreement dated, November 24, 1986, was filed in the record as a part of Exhibit No. 40. The Agreement was

reached through a series of mediation meetings between the developers of Square 1661 and Neighborhood Parties. The meetings were suggested by the District of Columbia Council, in connection with the application by the Donohoe Companies to close Belts Lane in Square 1661.

23. The Agreement with Neighborhood Parties provides for a reduction in commercial FAR from 4.02 to 3.80 and a reduction in the height and number of units in the residential component. It also provides for a reduction in the residential FAR from 1.30 to 0.92. The reduction in residential FAR will result in eighty-five dwelling units instead of 110 and a height of four and five stories instead of five and eight stories, as proposed in the second-stage application.
24. The applicant's architect testified that the reduction in commercial FAR would be achieved by eliminating floors three through seven from the northeastern portion of the office component. The applicant's plans were subsequently revised as shown on Exhibit No. 53B, the reduction in FAR by providing a fifteen foot set back from the applicant's northern property line, which is shared by The Donohoe Company.
25. The architect also testified that the applicant's Agreement with the Neighborhood Parties provides two options for reducing the density of the residential component. The first is to reduce the height of both residential elements to a uniform four stories, with a resulting FAR of 0.83 and seventy-seven dwelling units. The second option is to reduce the height of the mid-rise apartment building at the corner of Belts Lane and 43rd Street to five stories, and the low-rise apartment building along the balance of 43rd Street to four stories. This option would result in a 0.92 FAR and eighty-five units.

The architect stated that the applicant had studied both options and decided that the second option would result in a better urban design and a more superior elevation than would a single building of uniform height. He further indicated that the reduction in the height of the residential component will provide a better transition between the residential uses on 43rd Street and the commercial component of the project. He stated that the reduction in height would help to comply with Condition No. 4 of Order No. 493. He indicated that the townhouse look is more achievable with a four-story rather than a five-story building.

26. In addition to the changes that resulted from the Agreement with Neighboring Parties, the architect further testified that several other changes had occurred since the first-stage approval. He explained that those changes were the result of more detailed architectural analysis and ongoing consultations with adjacent developers, the Office of Planning and the Department of Public Works. First, he indicated that there was a major revision of the through-square connectors as they cross the subject property. He indicated that in the first-stage application, the through-square truck connector was shown to ramp down to the Metro level, but that it is now intended to remain at grade level from Military Road to Jenifer Street. The result, he indicated, is a straighter and simpler truck connector that will have no crossover with the through-square connector for cars. He stated that the flow of the through-square car connector had also been significantly simplified and that access to and from the parking level below had been improved for all three projects.
27. The architect also stated that additional building setbacks and stepbacks were added to the design of the project following the first-stage approval. He indicated that from Wisconsin Avenue, this provides a visual break from the upper mass of the building from the Abrams and Donohoe projects on either sides, and creates a more graceful massing progression. Further, he testified that the additional setbacks lessen the perceived height of the building on Wisconsin Avenue.
28. The architect further indicated that as required by Zoning Commission Order No. 493, the applicant had studied ways in which to reduce the retail FAR by 0.5 and the height of the office component by one story. He indicated that it was not feasible to do either. He noted that the retail FAR of the project had already been reduced by 0.18 since the first-stage approval and that a further reduction in retail FAR by 0.30 would only be achievable if the second floor became a combination of office and retail. He stated that this mix would result in a functionally and aesthetically compromised plan that would seriously threaten the success of the retail concept.

As to the feasibility of reducing the height of the office building, the architect stated that a reduction in the office height would yield massing solutions which would dramatically diminish setbacks from Wisconsin Avenue and cause the building to appear more bulky and tall. He indicated that the full height would permit the graceful terracing away from Wisconsin

Avenue and would also provide a better elevation along the entire Wisconsin Avenue frontage, the affect of which is to provide a better gateway image.

29. The architect described the building materials and colors that will be used in the project. He stated that the first two levels of the commercial component's facade will be a natural stone, tan in color. The office floors above will be precast concrete, toned to match the stone color below. The glass will be recessed gray-tinted, nonreflective glass. The residential component of the project will consist of brick and pre-cast stone. The sloped roofs will consist of slate-like shingles.
30. The architect further testified that the landscaping, exterior lighting and signage plan for the project had been further developed since the first-stage approval. He indicated that red oak trees would be planted along the curb and that thirty-foot flagpoles would be located along the curb, south of the retail entrance. He indicated that sugar maples would be located along 43rd Street, along with twelve-foot high ornamental street lights. Ground cover, flowering shrubs and small ornamental trees will be planted along the street side of the residential building.
31. The architect further stated that identity signage for the retail and office components of the project would be located at street level on Wisconsin Avenue. He indicated that illuminated entry identification would be integrated with ornamental metal framework at the retail and parking entries of the project. He further indicated that the applicant had jointly contracted with the abutting developers for a single graphic design firm to develop a coordinated signage and graphic presentation for all parking and service entries for the entire square.
32. The applicant's retail consultant submitted written testimony that it is not feasible to make further reductions in the retail FAR of the project. He indicated that it would be difficult to implement the retail concept the applicant envisioned for the project, with less than the current 120,000 square feet of gross leasable area. He stated that the project could only succeed if there were a sufficient size to create a true, destination-type retail center.
33. The applicant's economic consultant submitted written testimony that it would not be financially feasible to further reduce the retail or office FAR of the project. He indicated that a further reduction in gross leasable

space would result in an unacceptable rate of return for the project.

34. The applicant's traffic consultant submitted written testimony that the impact of a further reduction in retail space and a reduction in office height would have a negligible impact on the levels of service on the surrounding roadways. He indicated that the reductions would not cause any significant improvements in traffic conditions. He further testified that the traffic generated by the subject PUD, together with the other two developments in Square 1661, could be accommodated by the existing highway system or the roadway improvements proposed by DPW.
35. The traffic consultant further testified that the applicant did not rely on external roadway improvements in projecting levels of service in its first-stage application. He indicated that the first-stage application showed that all three developments could be constructed without major changes to Western and Wisconsin Avenues, and that all intersections worked at acceptable levels of service. He further indicated that since the first-stage application, the DPW had developed a plan which modifies and improves traffic operations on Western and Wisconsin Avenues. The plan includes the following:
 - a. Widening of Wisconsin Avenue to provide left turn lanes;
 - b. Widening of Jennifer Street to provide separate left-right and through lanes at Wisconsin Avenue;
 - c. Modification of Western Avenue to allow and provide a left turn movement from Western Avenue to Military Road; and
 - d. Modification of the traffic signal systems related to the plan roadway improvements.

He stated that the projected levels of service at Wisconsin and Western Avenues improved with the widening of Wisconsin Avenue, primarily due to the provision of a left turn lane from southbound Wisconsin Avenue to Western Avenue.

36. The traffic consultant indicated that there are very minimal differences between the roadway improvement plan proposed by DPW and the plan proposed by Mazza Gallerie. The Mazza plan was designed in an attempt to maintain wider sidewalks on its side of Wisconsin Avenue. The traffic consultant indicated that the only

real difference in the two plans is that the Mazza plan eliminates the right turn lane out of the southern exit of the applicant's property. The only other difference is the sidewalk widths and landscape opportunities on the east and west sides of Wisconsin Avenue. The consultant stated that he could not determine which plan would be most effective and practical, especially with regard to underground facilities.

The traffic consultant, in a supplemental filing on December 15, 1986, requested that the Commission not condition its approval upon the implementation of either the DPW or Mazza plan, but instead, that the applicant be allowed to continue working with DPW, Mazza and surrounding neighborhood groups to devise and implement the most effective plan to accomplish the proposed roadway improvements.

37. The applicant requested that the Commission grant it flexibility to do the following:
- a. Vary the location, number and design of all interior components in order to accommodate changes that may result from continued evaluation of space planning requirements;
 - b. Make minor adjustment in facade and window detailing in order to accommodate changes that may be made in the internal space and energy efficiency requirements of the building;
 - c. Vary the location and type of exterior lighting and plant material in the event that the currently proposed plants and lighting are not available at the time of purchase;
 - d. Vary the mix of unit types in the residential component in order to meet changing market conditions;
 - e. Substitute the final selection of exterior materials within the color ranges and material types proposed, in the event the proposed materials are not available at the time of purchase;
 - f. Vary the arrangement of the below-grade parking spaces and permit modification to below-grade space in order to permit further refinement and fine tuning of drawings;
 - g. Vary the design of the proposed through-square connector in order to accommodate further

improvement in design and further review by the Department of Public Works; and

- h. Allow the flexibility permitted pursuant to the PUD Regulations in order to permit any flexibility not already requested in other areas.
- 38. The District of Columbia Office of Planning (OP) by memorandum dated November 26, 1986, and by testimony presented at the public hearing, that the application was in general conformance with Z.C. Order No. 493, and recommended approval of the application. At the public hearing OP raised an additional issue. OP indicated that the applicant did not provide a fifteen-foot setback from its northern property line which is shared with the Donohoe Companies, as the setback was a part of the first-stage approval. The applicant was requested, by the Commission, to submit an urban design study on the feasibility of providing the setback.
- 39. On January 12, 1987, the applicant submitted a letter to the Commission indicating that it had studied the setback issue and determined that the best solution, from an urban design standpoint, is to provide the requested setback. The applicant indicated that the fifteen-foot setback would start at the third floor level from its northern property line to match a similar setback in the Donohoe project.
- 40. The District of Columbia Department of Public Works (DPW) did not file a memorandum regarding the second-stage application nor did it provide direct testimony at the public hearing. However, DPW did indicate that it had not seen the alternative plan developed by Mazza Gallerie regarding improvements to Wisconsin Avenue between Western Avenue and Jenifer Street.
- 41. Advisory Neighborhood Commission 3E, by letter dated November 26, 1986, and by testimony presented at the public hearing, supported the application, as amended by the Memorandum of Agreement dated November 24, 1986, between applicant and Neighborhood Parties.
- 42. ANC 3G, a party in the proceedings, by letter dated November 26, 1986, indicated that it supported the application, as amended by the Memorandum of Agreement with Neighborhood Parties dated November 24, 1986.
- 43. The Friendship Neighborhood Coalition (FNC), a party in the proceedings, by submission dated November 25, 1986, and by testimony at the public hearing, supported the application and the reductions in overall project FAR

as amended by the Memorandum of Agreement dated November 24, 1986, with Neighborhood Parties.

44. The Citizens Coordinating Committee on Friendship Heights (CCCFH), a party in the proceedings, by submission dated November 25, 1986, expressed its opposition to the application. However, by testimony at the public hearing the CCCFH expressed support of the application with reductions in project FAR as amended by the Agreement with Neighborhood Parties dated November 24, 1986.
45. The Donohoe Companies, a party to the proceeding, by letter dated November 26, 1986, and by testimony at the public hearing, indicated its support for the application but requested that the applicant be required to provide a fifteen-foot setback from the common property line it shares with Donohoe.
46. Abrams and Associates, Inc., a party to the proceeding, by letter dated November 26, 1986, and by testimony at the public hearing, indicated its support for the application as amended.
47. Mazza Gallerie, by letter dated November 26, 1986, requested party status to appear and participate at the public hearing. It stated that its interests in the case was related to the street widening plan for Wisconsin Avenue proposed by DPW. Mazza indicated that the widening of Wisconsin Avenue would narrow its sidewalks and thus have significant economic, environmental and social impacts on Mazza Gallerie. Specifically, they indicated that the proposed widening would compromise its streetscape in front of Mazza Gallerie and increase traffic noise and hazards. At the hearing, however, Mazza Gallerie withdrew its request for part status.
48. There were no individuals or organizations in support of or in opposition to the application that testified at the public hearing.
49. The Commission finds that Square 1661 should be developed and that the PUD process offers an effective means by which planning and development objectives can be achieved on the Square. The Commission further finds that the proposed office/retail and residential uses are appropriate for the site and consistent with the objectives of the Comprehensive Plan of the District of Columbia.
50. The Commission finds that the applicant has met the intent and purpose of the Zoning Regulations, the

planned unit development process, and the intent of the preliminary approval, including the related guidelines, conditions and standards.

51. The Commission concurs with the recommendations of the Office of Planning, ANC 3E, 3G and other parties, that the application should be approved.
52. The mediation process entered into by the applicant, other developers in the square and Neighborhood Parties has produced a mutually agreeable level of development for the subject site and square in general. The Agreement, in providing for a lesser height density of the project, is generally consistent with the Commission's preliminary approval. The Commission finds the nature and scope of the project to be unchanged.
53. The Commission finds that the proposed reductions in FAR will still allow the applicant to implement the project and allow the development objectives for the Square to be achieved.
54. The Commission concurs with the reduction of the residential component from five and eight stories to four and five stories in accordance with the Agreement between the applicant and Neighborhood Parties. The Commission further concurs with the one-story differential in the height of the residential building near the corner of 43rd and Military Road and the building along 43rd Street. The difference in the height of the two residential elements will provide a far superior elevation and facade than would a building of uniform height.
55. The Commission finds the building setback of fifteen-feet from the common property line with Donohoe to be appropriate. The restoration of the "lost" gross floor area in floors three-seven in the northeastern section of the building is also appropriate. The Commission finds that this approach will provide the best solution from an urban design standpoint for the entire square.
56. The Commission finds that the retail FAR has been reduced by 0.18, that a further reduction in FAR by 0.30 would result in a functionally and aesthetically compromised plan because it would require a combination office/retail floor. The Commission believes that this would compromise the integrity of the retail plan and threaten the success of the retail concept. The Commission also believes that a further reduction in retail FAR would not significantly improve levels of traffic on surrounding streets.

57. The Commission finds that the differences between the DPW and Mazza Gallerie plans to widen Wisconsin Avenue, are minimal. The Commission further finds that the approval of this application should not be conditioned upon implementation of either the DPW or Mazza plan, but instead upon whichever plan DPW determines to be most effective and have the least impact on all parties.
58. The Commission finds that within this case it is not necessarily feasible to require a jitney bus service to transport customers to and from other retail stores in the Friendship Heights area. The cost of providing such a service could be prohibitive due to the high cost of insurance, operations and maintenance. Further, the Commission finds that such a service would not significantly reduce the levels of service on the surrounding street system.
59. The Commission finds that the changes that were made in the truck through-square connector will result in a straighter, flatter and much simpler connector. The Commission finds that the new plan, which shows the connector at grade level, is an improvement over the previous plan which showed the connector to ramp down to Metro level. The changes have resulted in a significantly simplified through-square car connector with improved access to and from below-grade parking levels. These changes have resulted in an overall improvement for all three projects in Square 1661.
60. The Commission finds the changes made to the atrium and penthouse design of the project to be appropriate. The Commission finds that the revised design of the mechanical penthouse enclosure is an improvement over that which was proposed in the first-stage application. The revised design includes further setbacks from all property lines and visual integration into the overall massing of the building. The Commission also concurs with the reapportioning and downsizing of the octagonal atrium which is on the eastern side of the commercial component facing 43rd Street. The Commission finds that the changes bring the atrium into conformance with a 1:1 setback ratio.
61. The Commission finds that the redesign of the facade of the low-rise residential component on 43rd Street to have achieved a townhouse character. The applicant has incorporated enclosable balcony elements, mansard roofs with lower cornices and other visual devices which convey the spirit of townhouse massing and detailing. Further, the reduction in height and number of units pursuant to the Agreement with Neighborhood Parties has

further facilitated the applicant's efforts of providing a townhouse-like facade.

62. The Commission finds a single entrance and a single exit on Wisconsin Avenue not to be feasible. The Commission finds that the plans marked as Exhibit No. 20 as amended by No. 53B of the record, which provides a single entrance and two exits on Wisconsin Avenue, are the most feasible. The Commission further finds that two exits are needed to facilitate the movement of traffic out of the through-square connector and onto the street system.
63. The Commission finds that it is not practical or feasible to install a mid-block crosswalk on Wisconsin Avenue. Such a crosswalk would be hazardous on a seven lane, major thoroughfare like Wisconsin Avenue. Secondly, the Commission finds that the provision of separate walk planes at Wisconsin and Western will provide safe pedestrian movement across the street. Third, the Commission finds that there will not be any significant risk to pedestrians caused by traffic using the vehicular entrance on Wisconsin Avenue. The Commission finds that the driveways are appropriately spaced to afford pedestrians safety and protection.
64. The Commission finds that it is not feasible to provide a below grade pedestrian connection from the Metro level of Square 1661 to the Mazza Gallerie Metro level. The Commission believes that while it is physically feasible to provide such a connection, the legal entanglements and financial costs make it prohibitive. Further, the applicant is providing a pedestrian connection to the properties on the north and south of its site for Metrorail users. The Commission also finds that there will be adequate pedestrian safety provided for customers wishing to go back and forth between Mazza Gallerie and Square 1661, at the two controlled crosswalks on Wisconsin Avenue.
65. The proposed action of the Zoning Commission to approve the application with conditions, was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC, by report dated April 2, 1987, indicated that the proposed action of the Zoning Commission would not adversely affect the Federal Establishment or other Federal interests in the National Capital, not be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site,

because control of the use and site plan is essential to ensure compatibility with the neighborhood.

2. The development of this PUD carries out the purposes of Section 2400 to encourage the development of well-planned residential, institutional, commercial and mixed use developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
3. The development of this PUD is compatible with citywide goals, plans and programs, and is sensitive to environmental protection and energy conservation.
4. Approval of this application is not inconsistent with the Comprehensive Plan of the District of Columbia.
5. The approval of this PUD application is consistent with the purposes of the Zoning Act.
6. The proposed application can be approved with conditions which ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.
7. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The Zoning Commission has accorded to the Advisory Neighborhood Commission - 3E the "great weight" to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the District of Columbia Zoning Commission hereby orders APPROVAL for second-stage review for a planned unit development and related map amendment from R-5-B and C-2-B to R-5-C and C-3-B for Lots 1, 14, 15, 26, 800, 804 and 808 in Square 1661, with portions of a public street and alleys to be closed. The approval of this PUD and change of zoning are subject to the following guidelines, conditions and standards:

1. The Planned Unit Development (PUD) shall be developed in accordance with the plans prepared by Hellmuth, Obata and Kassabaum, Architects, marked as Exhibit No. 20, as amended by Exhibits No. 39

and 53B, as modified by the guidelines, conditions and standards of this Order.

2. The project shall be a mixed-use development consisting of residential apartments, general office and retail components. There shall be no movie theaters. The residential component shall consist of not less than eighty, nor more than eighty-five apartment units, and shall exclude any professional office uses, e.g., doctors, dentists, attorneys, and other similar professions.
3. The area of the site containing the residential component of the project shall be rezoned to R-5-C, beginning from 43rd Street on the east, the office/retail component of the PUD on the west, and the north and south property lines of the PUD at 43rd Street. This shall not preclude the applicant from using the sub-surface levels of the residential portion of the property for commercial and parking use. The remainder of the site shall be rezoned to C-3-B.
4. The floor area ratio (FAR) of the project shall not exceed 4.72, exclusive of atria as shown on the plans marked as Exhibit No. 53B of the record. The commercial FAR of the project shall not exceed 3.80, exclusive of atria.
5. The height of the residential component shall not exceed forty and forty-eight feet as shown on the plans marked as Exhibit No. 53B of the record. The height of the office component shall not exceed 110 feet, as shown on the plans marked as Exhibit No. 53B of the record.
6. The applicant shall provide a fifteen foot setback from its northern property line at the third floor, as indicated on the plans marked as Exhibit No. 53B of the record.
7. The lot occupancy of the project shall not exceed ninety-two percent of the site.
8. There shall be no vehicular access to or from the subject site on 43rd Street, except by occupants or visitors to the residential component of the project.
9. Landscaping and paving shall be in accordance with the general landscaping as shown on the plans marked as Exhibit No. 20 of the record. Streetscape design shall be in accordance with

Department of Public Works standards and as shown on Exhibit No. 20 of the record.

10. All utility lines for the project, along with existing utility lines on adjacent street frontages, shall be placed underground.
11. The applicant shall coordinate with the other owners in Square 1661 to develop a single unified plan for vehicular circulation as a through-square connector within Square 1661 as shown on Exhibit No. 20 of the record or any such amended unified vehicular circulation plan as the Commission may approve in any other planned unit development for Square 1661. The through square connector shall include: (a) parking and loading; (b) entrances and exits off of Wisconsin Avenue, Military Road and Jenifer Street; (c) internal vehicular circulation; and (d) internal and external signage. Lighted signs shall be provided at the garage entrance and shall indicate if the garage, including any connecting garage, is full.
12. There shall be a minimum of 550 below-grade parking spaces, five loading berths and three service delivery spaces as shown on the plans marked as Exhibit No. 20 of the record, and as modified by Exhibit No. 53B.
13. The parking garage shall provide the potential for a connection to the adjacent properties at not less than one location below grade level, as shown on the plans filed in the record and marked as Exhibit No. 20 and as modified by Exhibit No. 53B. Additionally, the applicant may modify its parking garage plan to provide additional connections to the adjacent properties in order to facilitate vehicular and pedestrian circulation.
14. The applicant shall provide at least one fully accessible parking space with each apartment unit. Such parking space shall only be used by the owner or occupant of the apartment and not for commercial use. The contract for the parking space shall prohibit future rental or separate conveyance of the parking space.
15. The project shall include a below-grade pedestrian connection for Metrorail users to properties to the north and south of the subject PUD site.

16. Pedestrian circulation through the project shall be provided as shown on the plans marked as Exhibit No.20 and as modified by Exhibit No. 53B.
17. There shall be no pedestrian bridges over Wisconsin Avenue from the subject site to the Mazza Gallerie.
18. Truck loading activity for the PUD site shall be in accordance with the truck management plan generally described in the record of this case and marked as a part of Exhibit No. 5. Specifically, there shall be no loading activity, including arrivals, departures, or maneuvering, at the PUD loading facility from 7:00 A.M. to 9:00 A.M. or from 4:30 P.M. to 6:00 P.M.
19. The truck route for disposal of excavated materials shall be subject to the approval of the Department of Public Works, and shall not include Western Avenue, between Wisconsin Avenue and River Road, unless no other route is available.
20. Construction work may not commence earlier than 7:00 A.M. The termination of construction shall be in conformance with District of Columbia regulations.
21. The applicant shall coordinate its construction schedule with the Department of Public Works to minimize any impact from the reconstruction of Military Road.
22. During the construction of the PUD, the applicant may use 43rd Street for construction purposes. The applicant is encouraged to coordinate its construction schedule with the adjacent property owners so as to provide to the extent possible coordinated staging of construction vehicles.
23. The applicant shall appoint an ombudsman to work with the community throughout the construction of the project. The ombudsman must be available during daytime, evening, and weekend hours during construction, and during subsequent operations.
24. Pursuant to the Memorandum of Understanding filed in the record as a part of Exhibit No. 5, the applicant shall coordinate with other property owners in the Square concerning graphics and architectural treatment of the through-square connector, and signage for the parking garage. Additionally, the applicant shall coordinate with other property owners in the Square to provide

coordinated operation of the below-grade transportation system.

25. The applicant shall implement the agreement with the Department of Employment Services filed in the record as as a part of Exhibit No. 5.
26. The applicant shall implement the Memorandum of Understanding filed in the record as a part of Exhibit No. 5, with the Minority Business Opportunity Commission ("MBOC"), or as amended by the MBOC.
27. The project shall include a comprehensive transportation management program to reduce single occupant vehicles accessing the site and to encourage maximum usage of the Friendship Heights Metro station. This program shall include the components described in the plan filed in the record as a part of Exhibit No. 5. The applicant shall work with the District of Columbia's Rideshare Coordinator and other developers in the square in the implementation and enforcement of this program.
28. The project shall include the amenities package proposed as part of this application, as described in Exhibit No. 5 of the record in this case.
29. The venting of the garage shall be conducted in full compliance with all applicable District of Columbia Code requirements. In compliance with those requirements, the venting shall be located at a minimum height of twenty feet above grade, and shall be so designed as not to adversely affect any adjacent residential use or any public amenity space.
30. Prior to the filing of an application for a building permit, the applicant shall enter into an agreement with the Department of Public Works (DPW) to provide for a pro rata share of the funding and implementation of the following:
 - a. Implementation of the street and road improvements as described in paragraph 2b of the DPW report dated March 28, 1986 and marked as Exhibits No. 147 and 102 of the records in Z.C. Case No. 85-9P and 85-16F/84-20P, respectively, and as described in Exhibit No. 16 of the record in this case. Additionally, the renovation of the traffic diverter at the intersection of 43rd and

Jenifer Streets, N.W., as described in Exhibit No. 160 of the record in Z.C. Case No. 85-20C; and

- b. A further study of present and future area traffic, including construction vehicles, as described in paragraph 2c of the DPW report dated March 28, 1986 and marked as Exhibits No. 147 and 102 of the records in Z.C. Case 85-9P and 85-16F/84-20P, respectively, and as described in Exhibit No. 16 of the record in this case. The study area boundaries are to include but not be limited to Western Avenue on the north, 41st Street and Reno Road on the east, Fessenden Street on the south, and River Road and Western Avenue on the west.

The applicant shall share with the other developers in Square 1661 the cost of this program, and the area street and road improvements.

31. The facade design treatment and materials of the proposed building shall be generally consistent with the plans marked as Exhibit No. 20 as modified by Exhibit No. 53B and as further described in Exhibit No. 19 filed in the record of this case. The final selection of exterior and interior materials shall be within the color range of the materials proposed. If the applicant determines that it is reasonably necessary to use a color which is not within the proposed color range, the applicant shall file with the Commission, and serve on all parties, a request for an appropriate amendment of this condition. After allowing all parties a reasonable opportunity to present written comments on the request, the Commission may dispose of the request without further hearing.
32. The applicant may vary the location and design of all interior components of the commercial building including additional or reconfigured position of vertical transportation as necessary to comply with all applicable codes or as required to obtain a final building permit.
33. Signage for the proposed project shall be in accordance with the signage criteria filed in the record and marked as Exhibits No. 5 and 40.

34. Thirty days after completion of construction of the underground parking facility, the through-square connector, and its roofing and venting, the applicant shall use the connector as such, and shall not use it for any other purpose.
35. The applicant and other owners in Square 1661 have the flexibility to resolve any problems which may result from coordination, construction and implementation of the through-square connector.
36. The applicant shall have adjustment flexibility in resolving problems which may stem from construction elements which physically relate to the Donohoe Companies, and the Abrams and Associates projects, to ensure final and proper calibration.
37. The change of zoning from R-5-B and C-2-B to R-5-C and C-3-B shall be effective upon recordation of a covenant as required by Section 2407 of the Zoning Regulations. The zone change shall be in accordance with Condition No. 3 of this Order.
38. No building permit shall be issued for this planned unit development until the applicant has recorded a covenant in the Land Records of the District of Columbia, between the owner and the District of Columbia and satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (DCRA), which covenant shall bind the applicant and successors in title to construct on and use this property in accordance with this Order, or amendments thereof, of the Zoning Commission.
39. The Zoning Secretariat shall not release the record of this case to the Zoning Regulations Division/DCRA until the applicant has filed a certified copy of the covenant with the records of the Zoning Commission.
40. The planned unit development approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, application must be filed for a building permit, as specified in Sub-sections 2407.2 and 2407.3 of the Zoning Regulations. Construction shall start within three years of the effective date of this Order.

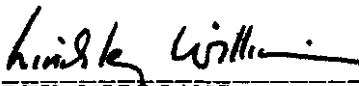
Vote of the Zoning Commission taken at the public meeting on February 9, 1987: 5-0 (Patricia N. Mathews, John G.

Parsons, Maybelle T. Bennett, Lindsley Williams, and George M. White to approve with conditions).

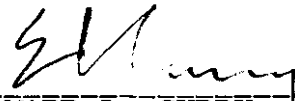
The Decision component of this order was adopted by the Commission at its public meeting on March 16, 1987 by a vote of 4-0 (Patricia N. Mathews, Maybelle T. Bennett, John G. Parsons and Lindsley Williams to adopt as amended - George M. White not present, not voting).

This order was adopted by the Zoning Commission at its public meeting on April 13, 1987 by a vote of 5-0 (John G. Parsons, George M. White, Patricia N. Mathews, Lindsley Williams, and Maybelle T. Bennett by proxy to adopt as amended)..

In accordance with 11DCMR Section 3028, this Order is final and effective upon publication in the D.C. Register, that is on 08 MAY 1987.



LINDSLEY WILLIAMS
CHAIRMAN
ZONING COMMISSION



EDWARD L. CURRY
Acting Executive Director
Zoning Secretariat

zcorder528/KATE26